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Supreme Court, U.S.
FILED

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OFFICE OF THE CLERK

No.

In the Supreme Court of the United States

MICHAEL E. TINDALL
Plaintiff-Petitioner
v.

WAYNE COUNTY FRIEND OF THE COURT, BY JOSEPH A. SCHEWE, Director of Legal Services; ALAN E. SKROK, Staff Attorney, Assistant Friend Of Court; WAYNE COUNTY SHERIFF'S DEPARTMENT, By: ROBERT FICANO, Sheriff; WAYNE COUNTY CIRCUIT COURT, FAMILY DIVISION, By: KIRSTEN FRANK KELLY, Presiding Judge; MICHAEL F.SAPALA, Chief Judge
Defendants-Respondents

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

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APPENDIX II TO PETITION FOR A WRIT OF CERTIORARI

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Counsel for the Petitioner

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Appendix G

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM

MICHAEL E. TINDALL, individually and on behalf of all others similarly situated

Plaintiff

VS

CASE NO. _____
HON. _____

THE STATE OF MICHIGAN;
MICHIGAN STATE FRIEND OF COURT BUREAU ("FOCB");
WAYNE COUNTY CIRCUIT COURT, FAMILY DIVISION ("WCCC"),
BY: HON. KIRSTEN FRANK KELLY, PRESIDING JUDGE;
WAYNE COUNTY FRIEND OF COURT ("WFOC"),
BY: KIM S. BATEMAN;
OAKLAND COUNTY CIRCUIT COURT, FAMILY DIVISION ("OCCC"),
BY: HON. JOAN E YOUNG, PRESIDING JUDGE;
OAKLAND COUNTY FRIEND OF COURT ("OFOC"),

BY: JOSEPH G. SALAMONE;

MACOMB COUNTY CIRCUIT COURT, FAMILY DIVISION,
BY: HON. DONALD MILLER, PRESIDING JUDGE;
MACOMB COUNTY FRIEND OF COURT (MFOC"),
BY: THOMAS J. MCDONALD;
MONROE COUNTY CIRCUIT COURT, FAMILY DIVISION, ("MOCCC")
BY: HON. JOHN HALLMAN, PRESIDING JUDGE;
MONROE COUNTY FRIEND OF COURT ("MOFOC"),
BY: MARIA ZAGORSKI;
WASHTENAW COUNTY CIRCUIT COURT, FAMILY DIVISION ("WACCC")
BY: HON. JOHN HIRKENDALL, PRESIDING JUDGE;
WASHTENAW COUNTY FRIEND OF COURT ("WAFOC"),
BY: LINDA EDWARDS - BROWN;
LIVINGSTON COUNTY CIRCUIT COURT, FAMILY DIVISION ("LCCC"),
BY: HON. SUSAN RECK , PRESIDING JUDGE;
LIVINGSTON CONTY FRIEND OF COURT ("LCFOC");
BY: MELISSA SCHARRER;
GENESEE COUNTY CIRCUIT COURT, FAMILY DIVISION ("GCCC"),
BY: HON. DUNCAN BEAGLE, PRESIDING JUDGE;
GENESEE COUNTY FRIEND OF COURT ("GFOC")

BY: JENNIE BARKLEY;

DAVIND M. FINDLING, ESQ., a/k/a "GARBAGE MAN" ("DMF") AND
FINDLING LAW FIRM PLC, ("FLF") jointly and severally,

Defendants.
_____\

TROMBLY TINDALL P.C.
ATTORNEYS FOR PLAINTIFF
BY: MICHAEL E. TINDALL (P29090)
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_____\

CLASS ACTION COMPLAINT FOR VIOLATION OF U.S. AND MICHIGAN CONSTITUTIONS, DECLARATORY JUDGMENT AND OTHER EQUITABLE RELIEF.

COMPLAINT AND JURY DEMAND

Now comes Plaintiff, by and through his undersigned attorneys, TROMBLY TINDALL P.C.,

and for this Complaint states as follows:

NATURE OF THE CASE:

1.This is a class action on behalf of all payers of child support in the seven (7) county metropolitan Detroit area and throughout the State of Michigan subject to domestic relations support orders and/or enforcement proceedings from and after August 22, 1996.

2. Plaintiff class members seek a declaration of their rights under the U.S. and Michigan Constitutions, Michigan statutes, and, Michigan court rules, together with equitable relief including an injunction(s) against further and additional violations of their constitutional and statutory rights; dissolution of illegal and unconstitutionally created receiverships and seizures of personal and real property; rescission of illegal and unconstitutional suspensions of professional, occupational, drivers and other licenses; restitution of illegally and unconstitutionally seized and taken real and personal property; accounting for and restitution of all proceeds of the sale or liquidation of illegally seized real and personal property and of all illegal, excessive and unreasonable fees, costs, and, expenses imposed on Plaintiff class members and paid to illegally and unconstitutionally appointed post judgment, state court domestic relations

receivers as a consequence of the violation of their constitutional and statutory rights.

3. On or about August 22, 1996, the U.S. Congress enacted P.L. 104-193, amending Section 466 of the Social Security Act, being 42 USC 666, to require states, including Michigan, to enact statutory procedures to improve the effectiveness of state child support enforcement under penalty of reduction of federal revenue sharing. These federally imposed requirements included the mandatory establishment of:

   A. Procedures under which liens would arise by operation of law against real and personal property of child support payers for amounts of overdue support allegedly owed by non custodial parents who reside or own property in the State of Michigan. 42 USC 666(a)(4)

   B. Procedures requiring a non custodial parent to give security, post bond, or, give some other guarantee to secure payment of

overdue support; *after* notice to the non custodial parent of the proposed action; *after* notice of the procedures to be followed to contest the alleged arrearage; and, *after* full compliance with all procedural due process requirements of the State of Michigan. 42 USC 666(a)(6).

C. Procedures under which the State of Michigan is to withhold, suspend or restrict the use of drivers, professional, occupational, recreation, and, sporting licenses of individuals allegedly owing overdue support, or, failing, *after appropriate notice*, to comply with subpoenas or warrants relating to paternity or child support proceedings. 42 USC 666(a)(16).

4.Thereafter, in an attempt to enact statutory provisions to comply with these federal requirements and to avoid loss of federal revenue sharing funds and revenue, the Michigan legislature enacted:

A. PA 1996, No. 239, being MCLA 552.628, effective January 1, 1997, authorizing an "office of friend of court" to petition a circuit

court to suspend professional, occupational, drivers and other licenses of a support payer three (3) months or more in arrears under a support order.

B.. PA 1998, No. 334, being MCLA 552.625b, effective August 10, 1998, authorizing an "office of friend of court" to perfect a lien against, encumber, seize, and, sell real and personal property, including through the appointment of a post judgment domestic relations receiver, of a payer of support if an arrearage accrues in an amount exceeding one (1) years support payments payable under a payer's support order.

5. PA 1996, No. 239, is unconstitutional on its face as it violates the Separation of Powers Clause, Article III, Section 2, of the Michigan Constitution; the Administrative action clause, Article VI, Section 28, of the Michigan Constitution; the due process clause, Article I, Section 17, of the Michigan Constitution; the Michigan Administrative Procedures Act, being MCLA 24.201, et seq.; and, thereby, deprives support payers in Michigan of their federally protected, constitutionally guaranteed right to due process of law under the 5th and 14th Amendments to the U.S. Constitution.

6.PA 1998, No. 334, is unconstitutional on its face as it violates the due process clause, Article I, Section 17 of the Michigan Constitution; and, deprives support payers in Michigan of their federally protected, constitutionally guaranteed right to due process of law under the 5th and 14th Amendments to the U.S. Constitution.

7.Throughout the Class Period, Defendants have, nevertheless, illegally and unconstitutionally suspended licenses of support payers, and, perfected liens and encumbrances against, and, seized, taken and sold real and personal property of support payers in the seven (7) county metropolitan area and throughout the State of Michigan, with and without the appointment of post judgment state court receivers, in violation of both the U.S. and Michigan Constitutions, without due process of law, and, in violation of the very statutory conditions imposed upon them by PA 1996, No 239, and, PA 1998, No. 334.

8.Defendants State of Michigan and FOCB have failed to adequately train and supervise Defendants "offices of friend of court"; have failed to adequately train, supervise and administer Defendants circuit courts; and, have failed to proscribe and implement adequate policies and procedures to ensure that the constitutional rights of support payers in the

seven (7) county metropolitan area and throughout the State of Michigan are adequately protected and enforced.

9.Throughout the Class Period, Defendants circuit courts and "offices of friend of court" have engaged in excessive and illegal appointments of post judgment domestic relations receivers, as a child support collection and enforcement device, without proper notice or hearing and in violation of the statutory conditions and restrictions contained in PA 1998, No. 334.

10.Although various persons have received appointments to act as post judgment domestic relations receivers, the disproportionate majority of said appointments in the seven (7) county metropolitan area have been given to David M. Findling, ("DMF"), a/k/a/ the "Garbage Man" and his law firm FINDLING LAW FIRM PLC ("FLF").

11.Under the authority and with the approval of Defendants circuit courts and Defendants "offices of friend of court", DMF and FLF have illegally and unconstitutionally encumbered, seized and taken the real and personal property of support payers under color of state law without due process of law and without just compensation; have liquidated and sold such

property for inadequate and less than full value; have failed to properly account for and apply proceeds from such sale and liquidation of property in accordance with state law; have charged and paid themselves, from the proceeds of such sales, excessive, unreasonable and unnecessary fees and compensation; and, have failed to properly pay over, credit and apply the proceeds of such seizures and sales against the support arrearages of targeted support payers.

12.Defendants circuit courts and "offices of friend of court" permit and encourage the illegal and unconstitutional appointments of DMF and FLF as post judgment domestic relations receivers pursuant to Orders of Appointment drafted by DMF and FLF, which Orders purport to illegally cloak DMF and FLF with absolute judicial immunity for their illegal acts; permit and approve the illegal and unconstitutional seizure and taking of private property in violation of law; and, authorize and approve the charging, payment and illegal application of excessive and unreasonable fees and costs to and by DMF and FLF; all as a device to illegally and improperly increase both the volume and amount of enforcement actions and collections against child support payers in Michigan, and, thereby, preserve and maintain Defendants' eligibility for and avoid reductions in federal funding and revenue sharing.

13.Defendants circuit courts and "offices of friend of courts" fail to terminate and dissolve these illegal and unconstitutional post judgment domestic relations receiverships when otherwise required pursuant to statute, thereby illegally preserving, continuing and maintaining such receiverships as ongoing collection and enforcement devices which can and are re-activated at will and without complying with required notice, hearing and due process requirements for the collection of future support arrearages.

14.Due to Defendants' illegal and unconstitutional conduct, and, their blatant violation of and disregard for statutory and rule made requirements for notice, hearing, and, required due process, Plaintiff and the other class members have had their property illegally encumbered, seized, sold, and, liquidated without due process of law; have had or been threatened with the illegal and unconstitutional suspension of licenses and the consequent limitation on their right and ability to earn an income; have had property taken without just compensation; have had property liquidated and sold at inadequate and less than fair value; have been subjected to and charged with excessive, unreasonable and unnecessary costs, fees, and expense; and, remain subject to the ongoing illegal and

unconstitutional control of these illegally appointed domestic relations receivers.

COUNT I: ALL DEFENDANTS

JURISDICTION

15. At all times relevant to the allegations of this Complaint, Plaintiff was a party to post Judgment domestic relations proceedings in Michigan, is subject to the Michigan Friend of Court Act (Act), MCLA 552.501, et seq., and the Support and Visitation Enforcement Act (Enforcement Act), being MCLA 552.601, and, is the holder of both operator and professional/occupational licenses in the State of Michigan.

16. Defendant State of Michigan operates, maintains and is responsible for the activities of Defendant Wayne County Friend of Court pursuant to MCLA 552.527; and, supervises, directs and is responsible for the training and activities of the remaining Defendant Friend of Court offices through its agency, Defendant State Friend of Court Bureau, pursuant to MCLA 552.519

17.Defendant State Friend of Court Bureau (FOCB) is a bureau or division of the Office of the

State Court Administrator created pursuant to Section 19 of the Friend of Court Act, being MCLA 552.503 and 552.519, and, is an agency of the State of Michigan statutorily charged with the duties and responsibilities of:

(a) developing and recommending guidelines for the conduct, operations, and, procedures employed by the Defendant "friend of court offices" in the course of:

(i)investigative functions
(ii)recommendation functions

(iii)referee functions; and,

(iv)enforcement functions

(b) training Defendant county "friend of court offices" and their employees to carry out statutory investigative, recommendation, referee and enforcement duties.

(C.) Developing guidelines for:

A. the imposition of liens against real and personal property of child support payers in Michigan, including, but not limited to, the appointment of

post judgment domestic relations receivers and the seizure of real and personal property belonging to such child support payers for the purpose of payment of allegedly past due child support arrearages.

B. requiring the posting of bond by child support payers in Michigan; and,

C. requiring security or other guarantees to secure the payment of support by child support payers in Michigan, including but not limited to, the suspension of professional/occupational and other licenses held by payers of child support; the appointment of post judgment domestic relations receivers, and, the seizure of real and personal property belonging to such child support payers in Michigan for the purpose of payment of allegedly past due child support arrearages.

18. Defendant Wayne County Circuit Court, Family Division, (WCCC) is the family division of

the Wayne County Circuit Court having sole and exclusive jurisdiction over the issuance and enforcement of support orders for Wayne County. Hon. Kristen Frank Kelly is presiding judge of the Family Division.

19. Defendant Wayne County Friend of Court (WFOC), is operated and maintained by the State of Michigan, and, is an "office of the friend of the court" created pursuant to Section 3 of the Michigan Friend of the Court Act, being MCLA 552.502, empowered by Michigan statute and Court Rule with responsibility for initiating proceedings to enforce orders and judgments issued by the Wayne County Circuit Court for support, visitation and custody. Kim S. Bateman is the Wayne County Friend of Court.

20.Defendant Oakland County Circuit Court, Family Division, (OCCC) is the family division of the Oakland County Circuit Court having sole and exclusive jurisdiction over the issuance and enforcement of support orders for Oakland County. Hon. Joan Young is presiding judge of the Family Division.

21. Defendant Oakland County Friend of Court (OFOC), is operated and maintained by the County of Oakland, and, is an "office of the friend of the court" created pursuant to Section 3 of the

Michigan Friend of Court Act, being MCLA 552.502, empowered by Michigan statute and Court Rule with responsibility for initiating proceedings to enforce orders and judgments issued by the Oakland County Circuit Court for support, visitation and custody. Joseph G. Salamone is the Oakland County Friend of Court.

22.Defendant Macomb County Circuit Court, Family Division, (MCCC) is the family division of the Macomb County Circuit Court having sole and exclusive jurisdiction over the issuance and enforcement of support orders for Macomb County. Hon. Donald Miller is presiding judge of the Family Division.

23. Defendant Macomb County Friend of Court (MFOC), is operated and maintained by the County of Macomb, is an "office of the friend of the court" created pursuant to Section 3 of the Michigan Friend of Court Act, being MCLA 552.502, empowered by Michigan statute and Court Rule with responsibility for initiating proceedings to enforce orders and judgments issued by the Macomb County Circuit Court for support, visitation and custody. Thomas J. McDonald is the Macomb County Friend of Court.

24. Defendant Monroe County Circuit Court, Family Division, (MOCCC) is the family

division of the Monroe County Circuit Court having sole and exclusive jurisdiction over the issuance and enforcement of support orders for Monroe County. Hon. John Hollman is presiding judge of the Family Division.

25. Defendant Monroe County Friend of Court (MOFOC), is operated and maintained by the County of Monroe, and is an "office of the friend of the court" created pursuant to Section 3 of the Michigan Friend of Court Act, being MCLA 552.502, empowered by Michigan statute and Court Rule with responsibility for initiating proceedings to enforce orders and judgments issued by the Monroe County Circuit Court for support, visitation and custody. Maria Zagorski is the Monroe County Friend of Court.

26. Defendant Washtenaw County Circuit Court, Family Division, (WACCC) is the family division of the Washtenaw County Circuit Court having sole and exclusive jurisdiction over the issuance and enforcement of support orders for Washtenaw County. Hon. John Hirkendale is presiding judge of the Family Division.

27. Defendant Washtenaw County Friend of Court (WAFOC), is operated and maintained by the County of Washtenaw, and is an "office of the friend of the court" created pursuant to

28. Section 3 of the Michigan Friend of Court Act,being MCLA 552.502, empowered by Michigan statute and Court Rule with responsibility for initiating proceedings to enforce orders and judgments issued by the Washtenaw County Circuit Court for support, visitation and custody. Linda Edwards-Brown is the Washtenaw County Friend of Court.

28. Defendant Livingston County Circuit Court, Family Division, (LCCC) is the family division of the Livingston County Circuit Court having sole and exclusive jurisdiction over the issuance and enforcement of support orders for Livingston County. Hon. Susan Reckk is presiding judge of the Family Division.

29. Defendant Livingston County Friend of Court (FOC), is operated and maintained by the County of Livingston, is an "office of the friend of the court" created pursuant to Section 3 of the Michigan Friend of Court Act, being MCLA 552.502, empowered by Michigan statute and Court Rule with responsibility for initiating proceedings

to enforce orders and judgments issued by the Livingston County Circuit Court for support, visitation and custody. Melissa Scharrer is the Lingston County Friend of Court.

30. Defendant Genesee County Circuit Court, Family Division, (GCCC) is the family division of the Genesee County Circuit Court having sole and exclusive jurisdiction over the issuance and enforcement of support orders for Genesee County. Hon. Duncan Beagle is presiding judge of the Family Division.

31. Defendant Genesee County Friend of Court (GFOC), is operated and maintained by the County of Genesee, is an "office of the friend of court" created pursuant to Section 3 of the Michigan Friend of Court Act, being MCLA 552.502, empowered by Michigan statute and Court Rule with responsibility for initiating proceedings to enforce orders and judgments issued by the Genesee County Circuit Court for support, visitation and custody. Jennie Barkey is the Genesee County Friend of Court.

32. DAVID M. FINDLING, ESQ., a/k/a the *"GARBAGE MAN"* ("DMF") is an attorney licensed to practice law in the State of Michigan and is a

principal/shareholder of FINDLING LAW FIRM PLC.

33. FINDLING LAW FIRM P.L.C. ("FLF") is the employer and principle of DMF and in whose name and under whose direction the illegal acts and scheme complained of herein were carried out. Upon information and belief, FLF and DMF are the principal architects and/or primary facilitators of a new illegal and unconstitutional policy, practice and procedure implemented by Defendants to use state court appointed receiverships as a post Judgment child support enforcement device; to illegally take private property without due process of law or just compensation in violation of the 5th and 14th Amendments to the U.S. Constitution, Article I, Section 17 of the Michigan Constitution, and, in violation of applicable state statutes and court rules; to illegally profit thereby through large volumes of illegal and improper court appointments obtained from Defendants, the charging of excessive and illegal fees, and, the failure to properly pay and account for moneys and funds illegally obtained from the sale/liquidation of illegally seized property, and, the failure to properly credit/apply such moneys and funds in accordance with statutorily proscribed priorities; all in exchange for assisting and facilitating the illegal acts and activities of Defendants complained of herein for the purpose

of preserving Defendants' share of federal revenue sharing monies.

COUNT II: ALL DEFENDANTS

GENERAL ALLEGATIONS

34. Plaintiff incorporates by reference the allegations contained in paragraphs 1-33 above.

35. At all times relevant hereto, Plaintiff has been an attorney licensed to practice law by the Michigan Supreme Court and the holder of various and sundry drivers and other licenses issued by the State of Michigan and/or its political subdivisions.

36.On or about December, 1991, Plaintiff was divorced by a Judgment of the WCCC.

37. From approximately 1992 through the current date, Plaintiff has been subject to the provisions of the Act and Enforcement Act as a payer of support for minor children pursuant to the judgment and orders of the WCCC.

38.From 1992 through the current date, Plaintiff has been the target of approximately eight (8) enforcement proceedings initiated by Defendant WCFOC before Defendant WCCC

relating to alleged support arrearages and commenced by the issuance of illegal and unconstitutional show cause orders ("SCOs") and/or illegal and unconstitutional bench warrants ("BWs") issued by Defendant WCFOC under the authority of and in complicity with Defendant WCCC.

39. Upon information and belief, the remaining Defendants "offices of friend of court" and Defendants circuit courts follow the same practices and procedures employed by Defendants WCCC and WCFOC for initiating and conducting support enforcement.

40. Upon information and belief, Defendant FOCB, acting in the name and under the authority of Defendant State of Michigan, designs, proscribes and approves the illegal and unconstitutional procedures and practices used by Defendants "offices of friend of courts" and Defendants circuit courts for the enforcement of child support orders.

41. On or about August 24, 1998, Defendant WCFOC issued the letter attached hereto as Exhibit A initiating a hearing before Defendant WCCC to suspend Plaintiff's license to practice law in Michigan based upon an alleged child support arrearage.

42. In August, 1998, Plaintiff discovered

that his child support account/balance had been illegally and improperly increased by Defendant WCFOC on March 13, 1998, by a computerized memo entry in the amount of $ 2,774.28, See, Exhibit B, for which no order had ever been entered by Defendant WCCC and while a properly filed Objection and Demand for De Novo Judicial hearing had been properly filed with Defendant WCCC and properly served on Defendant WCFOC. See, Exhibits C and D.

43. On or about September 4, 1998, Plaintiff filed an action in the United States District Court, Eastern District of Michigan, Case No. 98-CV-73896-DT (Federal Case) against Defendants WCCC and WCFOC under 28 USC 1983 for violation of Plaintiff's federally protected, constitutionally guaranteed rights to due process of law based upon the issuance of illegal and unconstitutional SCOs and BWs and the failure and refusal of Defendants WCCC and WCFOC to follow and obey Michigan statutes and court rules governing notice, hearing and de novo judicial hearing in the course of child support enforcement proceedings.

44. On or about February 2, 1999, while the Federal Case was pending decision, Defendants WCFOC and WCCC issued yet another illegal and unconstitutional SCO and BW for an alleged child support arrearage which they

knew was incorrect and inaccurate and which they knew included the amount of the illegal adjustment made to Plaintiff's account by Defendant WCFOC without proper court order.

45.Defendants WCCC and WCFOC knew, or, had reason to know that:

A. the SCO recited a knowingly false and incorrect arrearage balance

B. the incorrect arrearage balance resulted from the illegal action of Defendant WCFOC in adjusting Plaintiff's account.

C. The SCO was not properly supported by a sworn Affidavit as required by applicable law and court rule.

D. The SCO was not properly issued or signed by an independent judicial officer as required by law; but, was, in fact, issued by Defendant WCFOC.

E. The SCO was null and void and of no effect whatsoever; and, therefore, ineffectual to require or command an appearance or response The SCO was legally in

inadequate and insufficient to initiate proceedings or to create jurisdiction to take or conduct any valid action or proceeding against Plaintiff.

46. On or about February 25, 1999, Defendant WCFOC did unlawfully conduct a show cause hearing pursuant to the illegal and invalid SCO at which Plaintiff did not appear.

47. Thereafter, on February 25, 1999, Defendant WCCC, the Hon. J.W. Callahan presiding, without notice, hearing, or even conducting a proceeding on the record, did suae sponte appoint DMF and FLF as a post judgment domestic relations receiver over Plaintiff by telephone call.

48. On February 25, 1999, at the time Defendant WCCC appointed DMF and FLF as post judgment domestic relations receiver over Plaintiff:

    a. The "alleged" arrearage claimed by Defendant WCFOC did not exceed one (1) years support payments due under Plaintiff's support order;

    b. The "alleged" arrearage was known by Defendant WCFOC to be inaccurate and overstated by the

illegal computer entry made by Defendant WCFOC.

c. Plaintiff either had no true arrearage, or, the true arrearage was substantially less than the amount alleged by Defendant WCFOC.

d. Neither Defendant WCFOC, Defendant WCCC, nor, Defendant DWF ever complied with the statutory notice, hearing, and, other conditions, requirements and restrictions imposed by MCLA 552.625b as a necessary and essential predicate to the imposition of liens and encumbrances against real and personal property; the seizure of real or personal property; or, the appointment of a post judgment domestic relations receiver.

49. Thereafter, Defendant DWF and FLF did present for entry by Defendant WCCC an order which, upon information and belief, is their standard form post judgment domestic relations receivership Order used in Defendant

circuit courts, appointing DMF and FLF as post judgment domestic relations receiver over Plaintiff, See, Exhibit E, which Order contained numerous violations of applicable federal and Michigan law, including:

a. authorizing seizure and sale of real and personal property to satisfy "future" support, medical and insurance in direct violation of MCLA 552.603(2) which expressly provides that support amounts become an enforceable judgment only on or after the date each payment is due.

b. Authorizing and directing said receivership to extend beyond the real and personal property of Plaintiff to include property, entities, and, interests belonging to others. Authorizing the entry upon and seizure of private property, both that owned by Plaintiff and that owned by others, without warrant and by breaking, entering and use of FORCE and disturbance of the peace.

c.Authorizing the execution of legal documents and the initiation, participation and termination of

legal proceedings in Plaintiff's name

d. Authorizing DMF and FLF to charge receiver fees, expenses and costs to Plaintiff rather than against the person seeking or benefiting from the actions of the receiver, in violation of MCR 6.222.

e. Authorizing DMF and FLF to initiate and carry out legal action and proceedings ; and, thereby, generate additional excessive legal fees and costs without requiring either approval of the court or compliance with MCR 6.222.

f. Authorizing/granting DMF and FLF priority over other claimants and creditors, including the statutory priority for support, in violation of MCLA 552.603, 552.625a and 552.625b.

g. Granting DMF and FLF absolute judicial immunity despite the absence of any provisions of law authorizing same.

c. Upon information and belief, it is the common and established practice and procedure of Defendants WCCC and WCFOC, and, the remaining Defendants "offices of friend of court" and circuit courts to suspend licenses, and, appoint and employ post judgment domestic relations receivers in the same or similar manner and using the same illegal and unconstitutional practices and procedures in violation of MCLA 552.625b.

51. Upon information and belief, the practices and procedures used by Defendants WCFOC and WCCC for the suspension of licenses, and, the appointment and employment of post judgment domestic relations receivers, and/or the seizure of real and personal property of support payers, is known to, authorized and approved by Defendant FOCB in the name and under the authority of Defendant State of Michigan.

52. Upon information and belief, Defendants DMF and FLF receive a majority of the appointments as post judgment domestic relations receiver from Defendants within the seven (7)

county metropolitan area and are the persons who have actively solicited and encouraged Defendants to illegally make use of this device, in violation of applicable law, as a child support enforcement mechanism.

53. On or about September 30, 1999, the United States District Court, Eastern District of Michigan, the Hon. Denise Paige Hood presiding, issued its Declaratory Judgment in favor of Plaintiff and against Defendants and declaring the SCOs and BWs issued by said Defendants to be illegal and unconstitutional in violation of Plaintiff's federally protected, constitutionally guaranteed right to due process of law under the 5th and 14th Amendments to the U.S. Constitution. See, Exhibit G.

53. Upon information and belief, DMF and FLF have charged and propose to have Defendant WCCC asses against Plaintiff $17,348.25 in excessive and unreasonable receiver/attorney fees and costs for acting as a post judgment domestic relations receiver over

54. Plaintiff; without having collected any support whatsoever, or, performing any acts as receiver; and, which they expect Defendant WCCC to approve and impose against Plaintiff in violation of MCR 6.222. See, Exhibit F.

COUNT III: LICENSE SUSPENSIONS
VIOLATION OF MICHIGAN CONSTITUTION

55.Plaintiff incorporates by reference the allegations contained in paragraphs 1-54 above.

56.Article I, Section 17 of the Michigan Constitution provides, in relevant part:

> " No person... shall be deprived of life, liberty or property without due process of law. The right of individuals ... to fair and just treatment in the course of legislative and executive investigations and hearings shall not be infringed."

56. Article III, Section 2 of the Michigan Constitution provides, in relevant part, as follows:

> " The powers of government shall be divided into three branches: legislative,

executive and judicial. No person exercising powers of one branch shall exercise powers properly belonging to another branch except as expressly provided in this Constitution."

58.Article VI, Section 28 of the Michigan Constitution provides in relevant part:

> " All final decrees, findings, rulings and orders of any administrative officer or agency ... which are judicial or quasi judicial and affect private rights or licenses, shall be subject to direct review by the courts as provided by law."

59. MCLA 24.201 et se., the Michigan Administrative Procedures Act, ("APA") defines the term "licensing" to mean and include the issuance, suspension, renewal, and revocation of a license; vests exclusive jurisdiction over licensing in the appropriate state administrative/licensing agency (s); and, limits the jurisdiction of a circuit court over licenses and licensing to appellate review of any act or decision of a licensing agency by which a licensee deems himself to be aggrieved.

60.The APA created and requires an extensive framework of procedural due process, including

notice, hearings and other statutory safe guards, designed specifically to protect and preserve the constitutional rights of a licensee to due process of law; which rights may not be violated or abridged.

61.MCLA 552.628 and the various and sundry related provisions of the Act and the Enforcement

Act purport to vest in the circuit courts of Michigan, and/or their agents "offices of friend of court", original jurisdiction to suspend licenses.
62.The circuit courts and their agents "offices of friend of court" are constitutionally forbidden from exercising original jurisdiction over a license or to engage in any act of licensing in Michigan; and, are strictly limited solely to the exercise of appellate jurisdiction over the acts and decision of the particular licensing agency to whom original jurisdiction is granted by statute to act in respect of any particular license.

63. Michigan circuit courts and " offices of friend of court" are members of the judicial branch of government, not the executive branch; are not executive or administrative licensing agencies; and, may not exercise original licensing jurisdiction over a license in Michigan.
64.MCLA 552.628 is unconstitutional on its face under the Michigan constitution as it:

A. Violates the Separation of Powers Clause, Article III, Section 2, by usurping the original jurisdiction of the administrative licensing agency, properly exercised by the executive branch, and, vests such jurisdiction in the judicial branch.

B. Violates the Administrative action clause, Article VI, Section 28, by vesting original jurisdiction over private licenses in a circuit court which is limited, by express constitutional mandate solely to appellate jurisdiction over administrative actions and decisions affecting private licenses.

C. Violates the Due Process Clause, Article I, Section 17, as it abridges and denies the holder of a private license the right to just and fair treatment, as proscribed in the APA, by the administrative licensing agency properly vested with original jurisdiction over the private license and the process of licensing; and, attempts to illegally substitute therefore the original jurisdiction of the circuit court.

Wherefore, Plaintiff respectfully requests this Court issue its Declaratory Judgment declaring MCLA 552.628 unconstitutional under the Michigan Constitution; ordering the immediate rescission of all license suspensions

ordered by Defendants circuit courts and all other circuit courts in Michigan pursuant to MCLA 552.628 since January 1, 1997; and, permanently enjoining all further and additional suspensions of any license by Defendants or by any circuit court or "office of friend of court" in the state of Michigan pursuant to MCLA 552.628.

COUNT IV: LICENSE SUSPENSIONS
VIOLATION OF U. S. CONSTITUTION

65. Plaintiff incorporates by reference the allegations contained in Paragraphs 1-64 above.

66. The 5th Amendment to the U.S. Constitution provides that no person shall be deprived of life, liberty or property without due process of law.
48. The 14th Amendment to the U.S. Constitution provides that no state shall deprive a person of life, liberty or property without due process of law.

66. The right to due process of law in connection with state regulation of rights and privileges affecting the issuance, suspension, renewal and revocation of licenses is a fundamental right protected by and guaranteed under the U.S. Constitution.

67. Plaintiffs and the members of the class have a fundamental federally protected, constitutionally guaranteed right under the U.S. Constitution to

have the State of Michigan respect, enforce, and, protect the jurisdictional and procedural rights

68. created under the Michigan Constitution, and, by statute, including the APA, to proper notice, hearing, administrative action and decision in connection with the issuance, suspension, renewal and revocation of licenses.

68. Defendant State of Michigan and its licensing agencies are bound to follow both the constitutionally and statutorily created standards and procedures governing licensing in the State of Michigan and the failure or refusal to do so violates the federally protected, constitutionally guaranteed rights of Plaintiff and the members of the class to due process of law under the U.S. Constitution.

Wherefore, Plaintiff respectfully requests this Court issue its Declaratory Judgment declaring MCLA 552.628 unconstitutional under the 5th and 14th Amendments to the U.S. Constitution; ordering rescission of all license suspensions ordered by Defendants circuit courts and all other circuit courts in Michigan pursuant to MCLA 552.628 since January 1, 1997; and, permanently enjoining further and additional suspensions of licenses by Defendants circuit courts and all other circuit courts in Michigan pursuant to MCLA 552.628.

COUNT V : LICENSE SUSPENSIONS
VIOLATON OF MICHIGAN STATUTE

50. Plaintiff incorporates by reference the allegations contained in paragraphs 1-70 above.

51. Upon information and belief, the policies, procedures and practices employed by Defendants WCCC and WCFOC for the suspension of licenses under MCLA 552.628 is authorized and proscribed by Defendant FOCB in the name and on behalf of Defendant State of Michigan, and, is substantially identical to the policies, procedures and practices employed by all Defendants circuit courts and "offices of friend of court" and by all circuit courts and "offices of friend of courts" throughout the State of Michigan.

52. The letter filed by Defendant WCFOC to initiate proceedings in Defendant WCCC, See, Exhibit A, and the procedures followed by Defendant WCFOC in its attempt to suspend Plaintiff's license failed to comply with or conform to the requirements of MCLA 552.628 as follows:

A. Defendant WCFOC failed and refused

B. to issue the mandatory statutory notice required under MCLA 552.628(2)

C. Defendant WCFOC failed and refused to comply with the mandatory statutory notice time period required by MCLA 552.628(2)(c).

D. Defendant WCFOC failed and refused to file a proper "Petition" as required by MCLA 552.628(2) and by MCR 2.119.

E. Defendant WCFOC failed to serve a proper "Petition" or give required notice for requesting or obtaining relief from a circuit court as required by MCR 2.119

53. Upon information and belief, the failure and refusal to comply with the requirements and conditions of the statute was and is part of a willful and intentional practice on the part of Defendants WCCC and WCFOC and all Defendants circuit courts and "offices of friend of court" to expedite enforcement of support orders and collection of support by intentionally disregarding the statutory and constitutional rights of support payers in

54. order to reflect favorable enforcement statistics; and, thereby, to avoid penalties and reductions in federal revenue sharing for failure to meet or exceed federally established quotas and standards for enforcement and collection of child support.

55.The failure to follow known and established standards, conditions and requirements established by Constitution, statute or court rule, whether willful or negligent, violates the statutory and constitutional rights of Plaintiff and the members of the class to due process of law under both the U.S. and Michigan Constitutions.

Wherefore, Plaintiff respectfully requests this Court issue its Declaratory Judgment declaring the policies, practices and procedures approved and authorized by Defendant FOCB and used and employed by Defendants circuit courts and "offices of friend of court" to be illegal, unconstitutional, and, to violate the due process clauses of the U.S. and Michigan Constitutions; ordering rescission of all license suspensions by these Defendants and by all circuit courts in Michigan pursuant to MCLA 552.628 since January 1, 1997; and, permanently enjoining the further suspension of licenses by these Defendants and by all circuit courts and "offices of friend of court" in

Michigan until such time as lawful and proper procedures which protect the rights of support payers in Michigan and guarantee proper notice, hearing and due process in accordance with the requirements of law are enacted and followed.

COUNT VI: POST JUDGMENT DOMESTIC RELATIONS RECEIVERSHIPS FACIAL VIOLATION OF MICHIGAN CONSTITUTION

55. Plaintiff incorporates by reference the allegations contained in paragraphs 1-75 above.

56. Article I, Section 17 of the Michigan Constitution forbids the taking of private property without due process of law.

57. MCLA 552.625b authorizes the seizure and sale of the real and personal property of support payers in Michigan by the "office of friend of court"; and, for the appointment of post judgment domestic relations receivers by the "office of friend of court".

58. MCLA 552.625b is unconstitutional on its face as it purports to vest in "offices of friend of court" judicial power and authority to: (a)seize real and personal property; (b)

59. order real and personal property sold and proceeds of that sale applied; and, (c) appoint a receiver over a support payer; powers which may only be exercised by a judge.

60. The "office of friend of court" is an investigative and enforcement arm of the circuit court that is empowered only to conduct investigations and make recommendations.

61. The "office of friend of court" has no statutory or constitutional power or authority to "order" anything; and, its recommendations are non binding, not final, and, of no legal effect or consequence whatsoever.

62. Action may only be taken against a payer of support, or, the real and personal property of a payer of support upon the express, written and properly entered order of a judge.

63. Delegation of judicial power and authority to a person or agency that is not a duly elected judge violates the Due Process Clause and the Separation of Powers Clause of the Michigan Constitution and infringes upon the constitutional rights of

Plaintiff and the members of the class.

Wherefore, Plaintiff respectfully requests this Court issue its Declaratory Judgment declaring MCLA 552.625b unconstitutional under the Michigan Constitution; rescinding all appointments of post judgment receivers, all seizures and sales of real and personal property made pursuant to MCLA 552.625b by these Defendants and by all "offices of friend of court" in Michigan; ordering restitution of all such property and/or the proceeds of any such sales; ordering an accounting for all such property or proceeds seized or sold and any and all fees, expenses and costs incurred or deducted from such property or proceeds; and, permanently enjoining these Defendants and all circuit courts and "offices of friend of court" in Michigan from and against the seizure and sale of real and personal property of support payers, and, the appointment of post judgment domestic relations receivers pursuant to MCLA 552.625b.

COUNT VII: POST JUDGMENT DOMESTIC RELATIONS RECEIVERS FACIAL VIOLATION OF U.S. CONSTITUTION

62. Plaintiff incorporates by reference the allegations of paragraphs 1-83 above.

64. The 5th Amendment to the U.S. Constitution forbids the taking of private property without due process of law; and, without just compensation.

65. The 14th Amendment to the U.S. Constitution forbids Defendant State of Michigan and any of its agencies or political subdivisions from taking private property without due process of law, and, without just compensation.

66. The delegation and exercise of judicial power and authority to seize and sell real and personal property of support payers, and, to appoint post judgment domestic relations receivers over support payers and their real and personal property, to persons or agencies not duly elected and empowered to act as judges violates the 5th and 14th Amendments to the U.S. Constitution and deprives payers of support of their federally protected, constitutionally guaranteed rights to due process of law under the U.S. Constitution.

Wherefore, Plaintiff respectfully requests this Court issue its Declaratory Judgment declaring MCLA 552.625b unconstitutional under the U.S. Constitution; rescinding all seizures and sales of real and personal property and all appointments of post judgment domestic relations receivers by these Defendants and by all other circuit courts and "offices of friend of court" in Michigan made pursuant to MCLA 552.625b since August 10, 1998; ordering restitution of all real and personal property of support payers seized by these Defendants and by all other circuit courts and "offices of friend of court" in Michigan or by their post judgment domestic relations receivers pursuant to MCLA 552.625b since August 10, 1998; ordering an accounting for any such property seized or sold and for all fees, costs and expenses paid or deducted from such property or proceeds; and, permanently enjoining these Defendants and all circuit courts and "offices of friend of court" in Michigan from and against the seizure and/or sale of private property, and, the appointment of post judgment domestic relations receivers pursuant to MCLA 552.625b.

COUNT VIII: POST JUDGMENT DOMESTIC RELATIONS RECEIVERSHIPS FEDERAL AND STATE CONSTITUTIONAL AND STATE STATUTORY VIOLATIONS AND PRACTICES

67. Plaintiff incorporates by reference the allegations contained in paragraphs 1-87 above.

68. MCLA 552.603 provides that a support order issued by a Michigan court shall be enforced as provided in that section; and, that each support payment due under such support order becomes a Judgment as of the date each such payment is due.

69. MCLA 552.625a provides that the judgment lien created pursuant to MCLA 552.603 attaches to the real and personal property of a support payer.

70. MCLA 552.625b provides the exclusive statutory scheme and mechanism for the perfection, enforcement and satisfaction of liens created under MCLA 552.603 and attaching to the real and personal property of a support payer under MCLA 552.625a.

71. MCLA 552.625b provides that a lien for child support may not be perfected or enforced against the real and personal property of a support payer in Michigan, with or without the appointment of a post judgment domestic relations receiver, until:

A. The amount of a support arrearage/Judgment exceeds one(1) years support payments due under the support order.

B. Prior written notice of: (1) the creation and imposition of a statutory lien; and, (b) that real and personal property of the payer can be encumbered and seized; is given to any payer whose support order pre-dates the enactment of the statute.

C. Written notice is given to the payer of the perfection of the lien against real and personal property containing all the information required by MCLA 552.625b(7) (a)-(e).

D. Written notice is given the payer of his right to demand a review of any alleged error of fact, and/or to request a modification of the support

order.

E. The statutory 21 day notice period elapses without the payer requesting either review or modification

F. If a review is requested, the review is conducted within 14 days of the date of request.

G. Prior written notice is given the payer, either in person at a review, or, in writing, of the intent to levy and seize the payer's real and personal property.

72. Real and personal property of a payer of child support in Michigan may not be seized or sold, with or without the appointment of a post judgment domestic relations receiver, without full and complete compliance with the requirements and conditions of MCLA 552.625b.

73. MCLA 552.625b(13) provides that a statutory lien created by MCLA 552.603, which attaches to real and personal property of a support payer by virtue of MCLA 552.625a, is subordinate only to any prior, perfected lien.

74. MCLA 552.625b(14) provides that when a payer of support is no longer in arrears, the lien perfected against real and personal property must be terminated.

75. Defendants WCCC and WCFOC failed and refused to comply with the requirements or provisions of MCLA 552.625b when they appointed a post judgment receiver to size the real and personal property of Plaintiff on or about February 25, 1999.

76. Upon information and belief, all Defendants as well as all other circuit courts and "offices of friend of court, operating under the practices and procedures proscribed and approved by Defendant FOCB in the name and under the authority of Defendant State of Michigan, customarily and regularly fail and refuse to comply with the requirements and provisions of MCLA 552.625b in connection with the seizure and sale of real and personal property of support payers in Michigan; whether done directly, or, through the use of post judgment domestic relations receivers.

77. Upon information and belief, all Defendants as well as all circuit courts and

"offices of friend of court" , operating under the practices and procedures proscribed and approved by Defendant FOCB in the name and under the authority of the State of Michigan, customarily fail and refuse to fully and properly account to support payers for real and personal property seized by them, and for application of the proceeds thereof; whether done directly or through the use of a post judgment domestic relations receiver, as required by law.

78. Upon information and belief, every direct seizure of real and personal property by these Defendants and by circuit courts and "offices of friend of court" in Michigan since August 10, 1998, has violated the mandatory provisions and requirements of MCLA 552.625b and is illegal and unconstitutional.

79. Upon information and belief, Defendants DMF and FLF have received the overwhelming majority of appointments from Defendants to act as post judgment domestic relations receivers in the seven (7) county metropolitan area to effectuate the seizure and sale of real and personal property of support payers as a means to enforce support orders.

78. Upon information and belief, every appointment of DMF and FLF as post judgment domestic relations receivers since August 10, 1998 has violated the mandatory provisions and requirements of MCLA 552.625b and is illegal and unconstitutional for the reasons that:

A. Mandatory statutory notices, hearings, and, procedures have not been followed or complied with, and, therefore, payers have been denied mandatory due process of law as guaranteed under both the U.S. and Michigan Constitutions in connection with such appointments.

B. Many of these appointments, as in the case of Plaintiff, have been done by suae sponte and/or ex-parte judicial appointment, without even the basic notice, hearing or opportunity to be heard otherwise applicable to any action, application, or, request for relief from or to a court of law; thereby depriving payers of their basic constitutional rights to due process of law under the U.S. and Michigan Constitutions in any judicial proceeding.

80. Upon information and belief, DMF and FLF have illegally seized and liquidated substantial amounts of real and personal property of support payers under color of state law to enforce support orders since August 10, 1998; all without statutory compliance and in violation of payers' constitutional rights to due process of law.

81. Upon information and belief, the seizures and liquidations of real and personal property of support payers by DMF and FLF have been at or for less than full, fair or reasonable value and have, therefore, deprived support payers of just compensation for the taking of their property.

82. Upon information and belief, DMF and FLF have illegally charged excessive and unreasonable fees, costs and expenses against support payers, their real and personal property, and/or, the proceeds of the sale of said property in connection with these illegal and unconstitutional appointments and seizures and sales.

83. Upon information and belief, the fees and expenses charged by DMF and FLF were illegally given priority over and paid ahead

of the statutory higher priority lien for support in favor of the support recipient in violation of MCLA 552.603, 625a, and, 625b, thereby illegally reducing the amount of proceeds available to credit against and reduce support arrearages and illegally extending and continuing these illegal receiverships; and, increasing the fees payable to DMF and FLF contrary to applicable law.

84. Upon information and belief, DMF and FLF have failed and refused to properly and fully account for and pay over the proceeds from the illegal seizure and sale of real and personal property in the course of these illegal and unconstitutional post judgment domestic relations receiverships through the charging of illegal, excessive and unreasonable fees, and, the improper payment of their own fees and costs ahead of prior superior liens for past due support.

85. Upon information and belief, these Defendants circuit courts and "offices of friend of court" have and continue to illegally fail and refuse to terminate these illegal and unconstitutional post judgment domestic relations receiverships upon: (a) payment of the support arrearages and termination of the statutory lien; and/or, (b) reduction of the arrearage to and below one

86. (1) years support payments; as required by law, and, thereby, continuing such illegal and unconstitutional receiverships indefinitely as a means of securing future support enforcement without future compliance with the requirements and provisions of applicable law.

87. DMF and FLF have been unjustly and illegally enriched through their illegal and unconstitutional appointments as post judgment domestic relations receivers, by and in concert with these Defendants circuit courts and "offices of friend of court", in violation of applicable statutes and without due process of law; through the charging of illegal, excessive and unreasonable fees illegally and unconstitutionally charged by DMF and FLF with the knowledge and complicity of these Defendants circuit courts and "offices of friend of court"; through the misapplication of proceeds of the sale and liquidation of real and personal property of support payers throughout the seven (7) county metropolitan area; and, through the failure to fully and properly account for and pay over the proceeds of such seizures and sales of real and personal property.

Wherefore, Plaintiff respectfully requests this Court issue its Declaratory Judgment declaring the seizure and sale of real and personal property of support payers, and, the appointment of post judgment domestic relations receivers, in violation of and/or without full compliance with the conditions and requirements of MCLA 552.625b to be illegal, invalid, and, in violation of the U.S. and Michigan Constitutions; ordering rescission of all such illegal and unconstitutional seizures and sales of real and personal property, and, all appointments of post judgment domestic relations receivers since August 10, 1998 in violation of statute and the U.S. and Michigan Constitutions; ordering an accounting for all such seizures sales, and, appointments, and, of the application of all proceeds thereof; ordering restitution of all illegally and unconstitutionally seized real and personal property and/or proceeds of the sale thereof, whether or not through the device of a post judgment domestic relations receiver; ordering restitution of all fees, costs and expenses paid to, for , or, on behalf of DMF, FLF, and/or any and all other such illegally appointed receivers; and, permanently enjoining these Defendants and all other circuit courts and "offices of friend of court" in Michigan from and against: (a) further and future seizures and sales of real and personal property of support payers in the State of Michigan, with or without the appointment of post judgment domestic

relations receivers, without full compliance with and/or in violation of applicable law, (b) further and future appointment of post judgment domestic relations receivers without full compliance with and/or in violation of applicable law, and, (c) the further and future illegal use of liens, encumbrances, sales and/or seizures of real and personal property of support payers in Michigan, through any device, as a child support enforcement and collection mechanism.

COUNT IX: VIOLATION OF STATUTE AND COURT RULES ILLEGAL AND UNCONTITUTIONAL REFEREE AND JUDICIAL HEARINGS

88. Plaintiff incorporates by reference the allegations contained in paragraphs 1-107 above.

89. The Michigan Friend of Court Act ("Act"), being MCLA 552.501,et. seq., creates and establishes the "office of Friend of Court" ("FOC") as an investigatory and fact finding arm of the circuit court in domestic relations matters in Michigan.

90. Section 7 of the Act, being MCLA 552.507, specifically proscribes the powers and duties of FOC and its referees and expressly limits the power and authority of FOC and

its referees to the conduct of investigations and hearings and the making of written reports and recommendations.

91. Section 7(5) of the Act, being MCLA 552.507(5) specifically preserves and guarantees the right of every domestic relations litigant in Michigan to a de novo evidentiary judicial hearing on demand.

92. MCR 3.215 clearly proscribes the mandatory procedures which FOC must follow in the conduct of fact finding hearings; makes clear that the power and authority of the FOC is limited to the making of written reports and recommendations; makes clear that every domestic relations litigant in the State of Michigan is absolutely entitled to a de novo evidentiary judicial hearing by a judge on demand; and, makes clear that actions, decisions and orders binding and affecting domestic relations litigants in the State of Michigan may only be taken, made or entered by a Judge.

93. The required procedures for conducting FOC hearings under MCR 3.215 include:

i. give notice of the hearing and the subject matter to the parties and counsel.

ii. give a clear statement that the matter will be heard by a referee

ii. Apply the Michigan Rules of Evidence in the conduct of all referee hearings, including but not limited to: (1) the admission of documentary evidence; and, (2) the admission of only sworn testimony of witnesses and parties in compliance with the rules.

iii. Give two (2) notices, (one oral and one written) of the right to a de novo evidentiary hearing before a Judge.

iv. Make a mandatory electronic or stenographic record

v. Make specific findings of fact, and, a summary of all testimony either (1) orally on the record; or (2) by a written and signed report which must be served on the parties.

vi. Prepare a written

recommendation for an Order

vii. Serve the written recommendation and Proposed Order on the parties and/or counsel

viii. File a proof of service of the recommendation and Proposed Order with the Court.

ix. No order may enter and no action may be taken until twenty one (21) days afterservice of the written recommendation and Proposed Order.

94. Defendants circuit courts and "offices of friend of court", pursuant to practices, procedures and guidelines proscribed and approved by Defendant FOCB in the name and under the authority of Defendant State of Michigan, maintain a continuing and ongoing pattern and practice of violating and ignoring the mandatory provisions and requirements of the statute and the court rule in the conduct of FOC hearings and proceedings for the determination, modification and enforcement of child support, custody, and, parenting time orders by:

i. failing and refusing to serve proper notice of hearings on

domestic relations litigants as required by law.

ii. Failing and refusing to clearly and completely disclose the matter to be heard.

iii. Failing and refusing to apply the Michigan Rules of Evidence in such hearings and proceedings by:

(1)refusing to admit proper documentary evidence; (2) refusing to admit witness testimony; (3) admitting testimony of parties not conforming to the rules of evidence; (4) refusing to admit cross examination; and, (5) permitting FOC employees and attorneys to enter facts in the record, as evidence, without sworn testimony, without documentary support, and, without proper cross examination.

iv. Failing and refusing to provide litigants the two (2)

notices (usually the written one) of the right to de novo judicial evidentiary hearing

v. Failing and refusing to make the required specific findings of fact, and, summary of testimony; and, the written reports thereof.

vi. Failing and refusing to provide written recommendations and Proposed Orders

vii. Failing and refusing to properly serve written recommendations and Proposed Orders on parties and/or counsel

viii. Failing and refusing to file proof of service of items (e), (f) and (g) with the court

ix. Failing and refusing to comply with the twenty one (21) day period for de novo judicial evidentiary hearing required by the rule.

95. Defendant "offices of friend of court" pursuant to practices, procedures and guidelines proscribed and approved by Defendant FOC in the name and under the authority of Defendant State of Michigan, maintains a continuing and ongoing pattern and practice of violating and ignoring the provisions, requirements and limitations of the Act and the court rule by:

    i. illegally issuing SCOs without the direct involvement, participation and decision of a Judge.

    ii. Illegally issuing BWs without the direct involvement, participation and decision of a Judge.

    iii. Illegally setting terms and conditions of bond, custodial incarceration, and/or release without the direct involvement, participation and decision of a Judge.

96. Defendants circuit courts maintain a continuing and ongoing pattern and

practice of violating the statute and court rule by knowingly and intentionally permitting Defendants "offices of friend of court" to conduct proceedings in accordance with practices and procedures which Defendants circuit courts know, or have every reason to know, fail to conform to and comply with the standards and requirements of law and the rules.

97. Defendants circuit courts maintain a continuing and ongoing pattern and practice of violating the statute and court rule by knowingly and intentionally delegating to and permitting Defendants "offices of friend of court" to exercise judicial power and authority which Defendants circuit court know, or, have every reason to know, are exclusively reserved by law and constitutional mandate only to judges and may not be exercised by FOC.

98. Defendants circuit courts maintain a continuing and ongoing pattern and practice of violating the statute and the court rule by knowingly and intentionally failing and refusing to conduct full, complete and proper de novo judicial evidentiary hearings on the demand of a party, which they know, or, have every

reason to know, is mandatory and constitutionally guaranteed.

99. The illegal and improper conduct of Defendants "offices of friend of court" and Defendants circuit court occur in the context of all day to day activities and proceedings conducted by these Defendants; but, particularly in the conduct of:

i. child support determination and modification

ii. child support enforcement

iii. parenting time enforcement and compliance

100. Defendant "offices of friend of court" maintain a continuing and ongoing pattern and practice of failing and refusing to fully and properly investigate, act upon, and, enforce the terms of parenting time orders and the violation of and failure to comply with parenting time provisions/orders of the Defendants circuit courts, including:

i. failing and refusing to investigate, conduct necessary hearings and proceedings, and, enforce court ordered parenting time orders against custodial parents and in favor of non custodial parents

ii. failing and refusing to adopt, maintain and enforce statutorily required policies and standards for make up parenting time.

iii. Failing and refusing to initiate and complete statutorily required enforcement actions and proceedings against custodial parents on behalf of non custodial parents to enforce and insure ongoing compliance with the orders of Defendants circuit courts for parenting time.

101. Defendants circuit courts and Defendants "offices of friend of court" knowingly and intentionally fail, refuse and disregard the statutorily mandated obligation to enforce and insure compliance with parenting time

orders and matters in favor of and in order to conduct excessively and disproportionately higher numbers of support actions and proceedings for the reasons that:

i. support matters/enforcement statistics directly impact federal funding standards and the amount of federal revenue sharing received by Defendant State of Michigan.

ii. Parenting time matters/enforcement does not directly impact federal funding standards and the amount of federal revenue sharing received by Defendant State of Michigan.

102. Defendants circuit courts maintain a continuing pattern and practice of violating applicable state statutes and court rules as well as known federal and state constitutional standards by knowingly and intentionally jailing and incarcerating child support payers in Michigan for failure to pay child support:

i. without proper notice

ii. without full and proper evidentiary hearings

iii. without advising child support payers of their constitutional right to counsel

iv. without providing qualified child support payers with court appointed counsel

v. without properly distinguishing and applying known constitutional standards and distinctions between "civil contempt" matters, and, "criminal contempt" matters.

vi. Without following or complying with statutory provisions, presumptions, and, requirements, including various required alternatives to incarceration.

103. Upon information and belief, various and sundry Defendant circuit courts and their members have maintained a pattern and

practice of conducting highly publicized and televised "round ups" of allegedly delinquent child support payers in Michigan solely for the purpose of garnering publicity at or around the time of or in support of their own judicial campaigns and elections.

104. Defendants circuit courts maintain a continuing pattern and practice of violating applicable state statutes, court rules, and, known state and federal constitutional standards by knowingly and intentionally engaging in:

i. the illegal and unconstitutional suspension of licenses of child support payers in Michigan in violation of applicable law; in violation of applicable statutes; and, without due process of law.

ii. The illegal and unconstitutional seizure and sale of real and personal property of child support payers in Michigan in violation of applicable law; in violation of applicable statutes and court rules; and, without due process of law or just

compensation.

iii. The illegal and unconstitutional appointment of post judgment domestic relations receivers over child support payers in Michigan in violation of applicable law; in violation of applicable statutes; and, without due process of law.

105. Upon information and belief, the policies, practices and procedures used or followed by these Defendants in the course of and to carry out the illegal conduct herein complained of are known to, proscribed by, approved by, and, carried out in accordance with the direction and under the supervision of Defendant FOCB in the name and on behalf of Defendant State of Michigan.

106. The conduct complained of herein by and on behalf of these Defendants violates the rights of Plaintiff and all members of the class protected and guaranteed under the provisions of the Michigan Constitution.

107. The conduct complained of herein by and on behalf of these Defendants violates the

federally protected, constitutionally guaranteed rights of Plaintiff and all members of the class to due process of law under the 5th and 14th Amendments to the U.S. Constitution.

108. The conduct complained of herein by and on behalf of Defendants circuit courts, specifically, violates the Supremacy Clause, Article VI, of the U.S. Constitution which provides that the Constitution and laws of the United States shall be the supreme law of the land and the judges of every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding.

Wherefore, Plaintiff respectfully requests this Court issue its Declaratory Judgment declaring the actions, practices and procedures used, applied, engaged in, and, complained of herein directed at Plaintiff and the members of the class to be illegal, unconstitutional, and, in violation of applicable statutes and court rules; permanently enjoining these Defendants, each and every one of them, and, the remaining circuit courts and "offices of friend of court" in Michigan from and against further, additional and future violations of applicable statutes, court rules, and, violations of the rights of

Plaintiff and the members of the class guaranteed

and protected under the Michigan and U.S. Constitutions; and, ordering Defendants FOCB and State of Michigan to prepare, implement and enforce policies, practices, procedures and guidelines specifically designed to prevent further violations and illegal conduct by these Defendants and all circuit courts and "offices of friend of court" in Michigan, and, to protect and enforce the rights of Plaintiff and the members of the class guaranteed under the Michigan and U.S. Constitutions.

COUNT X: CLASS ACTION ALLEGATIONS

130. Plaintiff brings this action as a class action pursuant to MCR 3.501 on behalf of all persons within the seven (7) county metropolitan jurisdictions, and, throughout the State of Michigan, subject domestic relations parenting time orders and post judgment enforcement and collection of child support in domestic relations actions.

131. The members of the class are so numerous that joinder of all members is impracticable. The disposition of these claims in a class action will provide substantial benefits to the parties and the Court. During the

Class Period, it is estimated that more than Two Million (2,000,000) persons within the State of Michigan were and remain subject to post judgment enforcement and collection of child support.

132. There is a well defined community of interest in the questions of law and fact involved in this case. The questions of law and fact common to the members of the Class which predominate over questions which may effect individual Class members include the following:

(a). Whether Defendants have and continue to violate the provisions of the U.S. and Michigan constitutions in connection with post judgment enforcement of parenting time orders and collection of child support; and, specifically, the illegal suspension of licenses and the illegal seizure and taking of private property without due process of law.

(b) Whether Defendants have and continue to violate Michigan statutory requirements and standards in connection with the post judgment enforcement of parenting time orders and collection of child support; and, specifically, the illegal suspension of licenses and the illegal seizure and taking of private property without due process of law.

(c) Whether Defendants have and continue to violate the requirements and standards of applicable Michigan Court Rules in connection with the post judgment enforcement of parenting time orders and collection of child support; and, specifically, the illegal suspension of licenses and the illegal seizure and taking of private property without due process of law.

(d) Whether Defendants know, have reason to know, or, recklessly disregard applicable constitutional, statutory and rule standards, guidelines, protections, and, requirements in the course of post judgment enforcement of parenting time orders and collection of child support; and, specifically, the illegal suspension of licenses and the illegal seizure and taking of private property without due process of law.

(d) Whether Defendants and their agents should be compelled to account for and disgorge illegal profits, payments and revenues generated from and/or in the course of these illegal and unconstitutional actions; and, specifically, the illegal seizure and taking of private property without due process

of law.

(f) Whether Defendants and their agents should be compelled to make restitution for all private property illegally seized and taken in violation of constitutionally protected and guaranteed rights to due process of law and/or in violation of applicable standards and procedures imposed by statute and court rule.

133. Plaintiff's claims are typical of those of the Class because Plaintiff and all other class members throughout the State of Michigan are subject to the identical regulatory, administrative, and, enforcement scheme, and, the constitutional, statutory, and, rule made rights, standards, and, protections which have and continue to be violated are identical.

134. The prosecution of separate actions by individual Class members would create a risk of inconsistent and varying adjudications and would confront Defendants with varying and incompatible standards of conduct.

135. The prosecution of separate actions by individual Class members would create a risk of inconsistent and varying adjudications that would, as a practical matter, be dispositive of the

interests of other absent members and would substantially impair or impede the ability of absent members to protect their interests.

136. Plaintiff will fairly and adequately assert and protect the interests of the Class. Plaintiff's counsel is experienced in complex constitutional, civil rights and governmental regulatory litigation. Plaintiff has no interests which conflict with those of the Class.

137. A class action is superior to other available methods for the fair and efficient adjudication of these issues for the reasons that: Final Declaratory and Equitable relief is requested and is appropriate with respect to the Class; and, In view of the complexity and expense of the litigation, the separate claims of individual class members are insufficient in amount to support separate actions.

JURY DEMAND

Now comes Plaintiff on behalf of himself and all members of the class and demands a trial by jury of all issues so triable.

Respectfully Submitted,

TROMBLY TINDALL P.C.

BY: MICHAEL E. TINDALL